

EXHIBIT A

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10 Attorneys for Confidential Non-Party

11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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16 VIAVI SOLUTIONS INC.,

17 Plaintiff,

18 vs.

19 PLATINUM OPTICS TECHNOLOGY INC.,

20 Defendant.

21 CASE NO.: 5:21-CV-06655-EJD

22 DECLARATION OF CONFIDENTIAL NON-
23 PARTY IN SUPPORT OF PTOT'S
24 ADMINISTRATIVE MOTION TO FILE
25 UNDER SEAL

26 **REDACTED VERSION OF DOCUMENT**
27 **SOUGHT TO BE FILED UNDER SEAL**

DECLARATION OF CONFIDENTIAL NON-PARTY

I, [REDACTED], declare as follows:

1. I am over the age of eighteen, a member in good standing of the bar of the State of California, and am Senior Litigation Counsel, IP at [REDACTED] My knowledge of the matters stated herein is either personal or has been developed and confirmed through discussions with other [REDACTED] employees. If called and sworn as a witness, I could competently testify as set forth below.

2. I make this declaration pursuant to Civil Local Rule 79-5(c) in support of PTOT's Administrative Motion to File Under Seal Portions of PTOT's Motion for Summary Judgment, Separate Statement of Undisputed Facts, and Attachments to the Declaration of David Bloch in Support of PTOT's Motion for Summary Judgment (Dkt. No. 88) because documents and information therein contain non-party [REDACTED] confidential information and are subject to sealing by this Court.

3. In particular, [REDACTED] seeks to seal Exhibit 8 (Dkt. No. 88-9) as follows:

- a. The header and footer of each page of the Exhibit 8;
- b. PDF Page 2 (Title Page) at lines 7, and 14;
- c. PDF Page 3 (document page 14) at lines 1, 2, 5, 6, 8, 11, 12, 14, 17, 19, 21, 23, 24, 25, and 27;
- d. PDF Page 4 (document page 15) at lines 1, 2, 3, 5, 7, 8, 10, 14, 18, 21, 22, 23, and 24;
- e. PDF Page 5 (document page 16) at lines 3, 4, 5, 6, 8, 11-14, 16, 20, 21, 23, and 26;
- f. PDF Page 6 (document page 17) at lines 1, 3, 5, 6, 7, 8, 9, 10, 12, 14, 15, 19, 23, 26, and 27;
- g. PDF Page 7 (document page 18) at lines 1, 2, 8, 9, 10, 11, 13, 16-19, 21, 22 and 26;
- h. PDF Page 8 (document page 20) at lines 1, 8, 9, 10, 11, 13, 16, 17, and 24.

4. The information that [REDACTED] seeks to maintain under seal in Paragraph 3(a) through (h) identifies [REDACTED] as the confidential purchaser of components from the parties to the litigation. That [REDACTED] has any contractual relationship with either party to this litigation is designated as “Highly Confidential – Attorneys’ Eyes Only” pursuant to the Protective Order entered in this case.

5. Non-party [REDACTED] expends significant time and resources to maintain the confidentiality of such information, including from whom it sources components of its products, and seeks to maintain the confidentiality and non-public nature of this type of information. Access to this confidential information is limited only to specific personnel within [REDACTED].

6. Based on my investigation, [REDACTED] does not publicly share or publish this confidential information. Public disclosure of [REDACTED] as a purchaser of components would result in harm to [REDACTED], a non-party to this litigation.

7. Compelling reasons exist to seal this document. The public does not have a meaningful interest in obtaining the identity of [REDACTED] because [REDACTED] is not a party to this lawsuit between Viavi and PTOT. Public disclosure of this information would cause particularized harm to non-party [REDACTED], for example, as it would allow others to identify its component suppliers and other non-public information about [REDACTED]'s suppliers, which competitors could use to gain an unfair business advantage against [REDACTED] in the development of future products.

8. [REDACTED]'s request to seal is narrowly tailored to only those portions identified in Paragraph 3(a) through (h).

9. In view of the foregoing, [REDACTED] respectfully requests that the Court to seal the portions of Exhibit 8 (Dkt. No. 88-9) as set forth in Paragraph 3(a) through (h).

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DECLARATION OF CONFIDENTIAL NON-PARTY IN SUPPORT OF PTOT'S ADMINISTRATIVE MOTION
TO FILE UNDER SEAL

1 I declare under penalty of perjury under the laws of the United States of America and the
2 State of California that the foregoing is true and correct.

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4 Executed this 3rd day of November, 2022, at San D ego, California.

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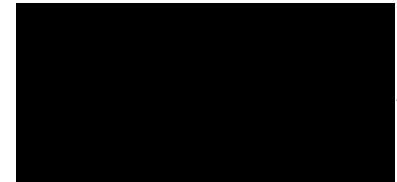
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EXHIBIT 8

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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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12 VIAVI SOLUTIONS INC.,

13 Plaintiff,

14 vs.

15 PLATINUM OPTICS TECHNOLOGY INC.,

16 Defendant.

17 CASE NO.: 5:21-CV-06655-EJD

18 NON-PARTY [REDACTED]

19 SUPPLEMENTAL OBJECTIONS AND
20 RESPONSES TO VIAVI SOLUTIONS
21 INC.'S SUBPOENA TO PRODUCE
22 DOCUMENTS, INFORMATION, OR
23 OBJECTS IN A CIVIL ACTION

1 issues. Furthermore, to the extent [REDACTED] produces any materials in response to the Subpoena,
2 such production will be subject to the Protective Order entered in this case, with [REDACTED] reserving
3 the right to insist upon supplemental protections.

4 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 4:**

5 Subject to and without waiving the foregoing objections, [REDACTED] responds as follows:
6 [REDACTED] stands on its objections to this Request.

7 **REQUEST NO. 5:**

8 Documents, Communications, and Things sufficient to identify the [REDACTED] mobile devices
9 that each PTOT Optical Filter has been incorporated into.

10 **OBJECTIONS AND RESPONSES TO REQUEST NO. 5:**

11 [REDACTED] incorporates each of its General Objections and Responses into its response to
12 Request No. 5 as if fully set forth herein. [REDACTED] further objects to this Request at least for the
13 following reasons:

14 Party Discovery: [REDACTED] objects to this Request to the extent it seeks documents and
15 information in the possession of, equally available to, and/or more efficiently obtained from the
16 Defendant.

17 Overly Broad and Unduly Burdensome: [REDACTED] objects to this Request as overbroad and
18 unduly burdensome, and failing to take reasonable steps to avoid imposing undue burden and
19 expense on third-party [REDACTED]. The Request is not narrowly or reasonably tailored, particularly in
20 its use of the defined term “PTOT Optical Filters,” which encompasses PTOT products “whether
21 provided, supplied, or sold, directly or indirectly, by PTOT to [REDACTED].” [REDACTED] also objects to the
22 defined term “PTOT Optical Filters” as overly broad and unduly burdensome to the extent it
23 purports to require [REDACTED] to identify whether responsive products were “manufactured by PTOT
24 on or after May 1, 2020.” [REDACTED] further objects to this Request as overly broad and unduly
25 burdensome in its request for information “[REDACTED] provided PTOT, directly or indirectly.” [REDACTED]
26 further objects to this Request as overly broad and unduly burdensome to the extent it seeks
27 information that is not easily accessible by [REDACTED] and/or that is related to products not
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1 announced or released by [REDACTED] [REDACTED] will not produce information referring or relating to
2 unreleased products. [REDACTED] further objects to the extent that this Request seeks documents and
3 things not in the possession, custody, or control of [REDACTED] and/or that are equally accessible to
4 one or more parties to the litigation or other third parties.

5 Vague and Ambiguous: [REDACTED] objects to this Request as vague and ambiguous. In
6 particular, the defined term “PTOT Optical Filters” is unclear and would require the subjective
7 judgment of [REDACTED] or its attorneys. In addition, it is unclear whether the Request seeks the
8 identification of “[REDACTED] mobile devices” by product line (e.g., by model number) or by device
9 (e.g., by serial number).

10 Privileged and Work Product Materials: [REDACTED] objects to this Request to the extent that it
11 seeks the production of documents or information protected by the attorney-client privilege, the
12 attorney work product doctrine, the common interest privilege, or any other applicable privilege,
13 immunity, or protection from discovery, including any third-party duty or obligation of non-
14 disclosure, privacy, or confidentiality. [REDACTED] will not produce privileged or protected documents
15 or information, and any inadvertent disclosure or production thereof shall not be deemed a
16 waiver of any privilege with respect to such information or documents or of any work product
17 immunity which may attach thereto.

18 Not Relevant Third-Party Discovery: Third-party [REDACTED] objects to this Request to the
19 extent it seeks documents, things, or information that is not relevant and exceeds the reasonable
20 scope of third-party discovery under the Federal Rules. The burden and expense of the proposed
21 discovery to third-party [REDACTED] outweighs its likely benefit. For example, third-party [REDACTED]
22 objects to this Request to the extent that it seeks [REDACTED] trade secrets, commercially sensitive
23 information, and/or closely guarded research and development information. [REDACTED] will not
24 produce information referring or relating to unannounced or unreleased products. [REDACTED] further
25 objects to this Request to the extent that it seeks documents, things, or information protected
26 from disclosure, including pursuant to Federal Rule of Civil Procedure 26(c)(1)(G) and/or
27 Federal Rule of Evidence 501. Plaintiff has not established that such sensitive and proprietary
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1 information and things are relevant to any party's claim or defense, or that it is proportional to
2 the needs of the above- captioned case, considering the importance of the issues at stake, the
3 amount in controversy, the parties' and [REDACTED] relative access to relevant information, the
4 parties' and third-party [REDACTED] resources, and the importance of the discovery in resolving the
5 issues. Furthermore, to the extent [REDACTED] produces any materials in response to the Subpoena,
6 such production will be subject to the Protective Order entered in this case, with [REDACTED] reserving
7 the right to insist upon supplemental protections.

8 Subject to and without waiving the foregoing objections, [REDACTED] will meet and confer with
9 Plaintiff regarding the scope of this Request.

10 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 5:**

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 **REQUEST NO. 6:**

16 Documents, Communications, and Things sufficient to show the quantity of [REDACTED]
17 mobile devices that incorporate a PTOT Optical Filter that has been imported into or sold in the
18 United States since May 1, 2020.

19 **OBJECTIONS AND RESPONSES TO REQUEST NO. 6:**

20 [REDACTED] incorporates each of its General Objections and Responses into its response to
21 Request No. 6 as if fully set forth herein. [REDACTED] further objects to this Request at least for the
22 following reasons:

23 Party Discovery: [REDACTED] objects to this Request to the extent it seeks documents and
24 information in the possession of, equally available to, and/or more efficiently obtained from the
25 Defendant.

26 Overly Broad and Unduly Burdensome: [REDACTED] objects to this Request as overbroad and
27 unduly burdensome, and failing to take reasonable steps to avoid imposing undue burden and
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1 expense on third-party [REDACTED] The Request is not narrowly or reasonably tailored, particularly in
2 its use of the defined term “PTOT Optical Filters,” which encompasses PTOT products “whether
3 provided, supplied, or sold, directly or indirectly, by PTOT to [REDACTED] [REDACTED] also objects to the
4 defined term “PTOT Optical Filters” as overly broad and unduly burdensome to the extent it
5 purports to require [REDACTED] to identify whether responsive products were “manufactured by PTOT
6 on or after May 1, 2020.” [REDACTED] further objects to this Request as overly broad and unduly
7 burdensome to the extent it seeks information that is not easily accessible by [REDACTED] and/or that is
8 related to products not announced or released by [REDACTED] [REDACTED] will not produce information
9 referring or relating to unreleased products. [REDACTED] further objects to the extent that this Request
10 seeks documents and things not in the possession, custody, or control of [REDACTED] and/or that are
11 equally accessible to one or more parties to the litigation or other third parties.

12 Vague and Ambiguous: [REDACTED] objects to this Request as vague and ambiguous. In
13 particular, the defined term “PTOT Optical Filters” is unclear and would require the subjective
14 judgment of [REDACTED] or its attorneys.

15 Privileged and Work Product Materials: [REDACTED] objects to this Request to the extent that it
16 seeks the production of documents or information protected by the attorney-client privilege, the
17 attorney work product doctrine, the common interest privilege, or any other applicable privilege,
18 immunity, or protection from discovery, including any third-party duty or obligation of non-
19 disclosure, privacy, or confidentiality. [REDACTED] will not produce privileged or protected documents
20 or information, and any inadvertent disclosure or production thereof shall not be deemed a
21 waiver of any privilege with respect to such information or documents or of any work product
22 immunity which may attach thereto.

23 Not Relevant Third-Party Discovery: Third-party [REDACTED] objects to this Request to the
24 extent it seeks documents, things, or information that is not relevant and exceeds the reasonable
25 scope of third-party discovery under the Federal Rules. The burden and expense of the proposed
26 discovery to third-party [REDACTED] outweighs its likely benefit. For example, third-party [REDACTED]
27 objects to this Request to the extent that it seeks [REDACTED] trade secrets, commercially sensitive
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1 information, and/or closely guarded research and development information. [REDACTED] will not
2 produce information referring or relating to unannounced or unreleased products. [REDACTED] further
3 objects to this Request to the extent that it seeks documents, things, or information protected
4 from disclosure, including pursuant to Federal Rule of Civil Procedure 26(c)(1)(G) and/or
5 Federal Rule of Evidence 501. Plaintiff has not established that such sensitive and proprietary
6 information and things are relevant to any party's claim or defense, or that it is proportional to
7 the needs of the above- captioned case, considering the importance of the issues at stake, the
8 amount in controversy, the parties' and [REDACTED] relative access to relevant information, the
9 parties' and third-party [REDACTED] resources, and the importance of the discovery in resolving the
10 issues. Furthermore, to the extent [REDACTED] produces any materials in response to the Subpoena,
11 such production will be subject to the Protective Order entered in this case, with [REDACTED] reserving
12 the right to insist upon supplemental protections.

13 Subject to and without waiving the foregoing objections, [REDACTED] will meet and confer with
14 Plaintiff regarding the scope of this Request.

15 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 6:**

20 **REQUEST NO. 7:**

21 For those [REDACTED] mobile devices identified in response to Request for Production No. 5,
22 Documents, Communications, and Things sufficient to show [REDACTED] relative market share for
23 those products shipped to the United States as compared to the same products as shipped
24 globally.

25 **OBJECTIONS AND RESPONSES TO REQUEST NO. 7:**

26 [REDACTED] incorporates each of its General Objections and Responses, as well as its Specific
27 Objections and Responses to Request No. 5, into its response to Request No. 7 as if fully set
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1 information, and/or closely guarded research and development information. [REDACTED] will not
2 produce information referring or relating to unannounced or unreleased products. Apple further
3 objects to this Request to the extent that it seeks documents, things, or information protected
4 from disclosure, including pursuant to Federal Rule of Civil Procedure 26(c)(1)(G) and/or
5 Federal Rule of Evidence 501. Plaintiff has not established that such sensitive and proprietary
6 information and things are relevant to any party's claim or defense, or that it is proportional to
7 the needs of the above- captioned case, considering the importance of the issues at stake, the
8 amount in controversy, the parties' and [REDACTED] relative access to relevant information, the
9 parties' and third-party [REDACTED] resources, and the importance of the discovery in resolving the
10 issues. Furthermore, to the extent [REDACTED] produces any materials in response to the Subpoena,
11 such production will be subject to the Protective Order entered in this case, with [REDACTED] reserving
12 the right to insist upon supplemental protections.

13 Subject to and without waiving the foregoing objections, [REDACTED] will meet and confer with
14 Plaintiff regarding the scope of this Request.

15 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 7:**

16 Subject to and without waiving the foregoing objections, [REDACTED] responds as follows:
17 [REDACTED] stands on its objections to this Request.

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21 Dated this 7th day of October, 2022

WALKER STEVENS CANNOM LLP

23 _____
24 */s/ Hannah L. Cannom*
Hannah L. Cannom

25 Attorneys for Non-Party [REDACTED]